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U-2 INQUIRY FINDS POWERS DID BEST TO OBEY ORDERS

Officials Fail to Learn How
Plane Was Felled—Doubt
Direct Hit by Rocket

By E. W. KENWORTHY
Special to The New York Times.

WASHINGTON, Feb. 27—A special board of inquiry has concluded that Francis Gary Powers, the U-2 pilot whose plane was downed over the Soviet Union May 1, 1960, did his best to carry out his instructions and fulfill his contract with the Central Intelligence Agency.

The inquiry, together with questioning by intelligence officials, has failed to determine conclusively how the high-altitude reconnaissance plane was brought down over the Soviet Union two years ago.

Officials are now convinced, however, that the plane was not brought down by a direct hit by a Soviet rocket.

Backed on Two Points

According to informed sources, the board of inquiry has satisfied itself that Mr. Powers has told the truth on two key points.

The first of these is that he U-2, which was on a reconnaissance flight far into Soviet territory, was thrown out of control by an explosion at the rear of the plane. The plane went into a spin.

The second point is Mr. Powers' contention that he was unable to carry out his instructions to destroy the plane because the force of the explosion and the subsequent centrifugal action of the spinning plane hurled him into positions where he could not reach the "destruct" button.

The board is headed by Judge E. Barrett Prettyman, who retired in 1960 as Chief Judge of the United States Court of Appeals for the District of Columbia, but who continues to serve on the court.

It was created by President Kennedy at the request of the Central Intelligence Agency to examine whether Mr. Powers had completed his contract and thus was entitled to back pay.

Salary Was Held Back

As a result of the board's finding, Mr. Powers will presumably receive his back pay. His salary was \$2,500 a month, of which \$1,000 was held to be paid on successful completion of his contract. The accumulation of the pay held in escrow plus the \$2,500 monthly since his capture amounts to more than \$50,000.

The board's report was to be delivered to John A. McCone, director of the Central Intelligence Agency. Judge Prettyman has retired as chief judge of the United States Court of Appeals for the District of Columbia, but he continues to serve on the court.

On Capitol Hill today, a special Senate subcommittee made up of selected members of the Armed Services and Appropriations Committees, arranged to

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United Press International

Francis Gary Powers

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get both the board's report and a report based on C. I. A. interrogation of Mr. Powers from Mr. McCone on Thursday. However, White House sources said Mr. McCone's appearance might be postponed until early next week.

The subcommittee chairman is Senator Richard B. Russell, Democrat of Georgia, who also heads the Armed Services Committee. Senator Russell said that the subcommittee would study the reports of both the C. I. A. and the board of inquiry before deciding whether to conduct an independent inquiry.

President Kennedy has said that Mr. Powers would be made available both to Congressional committees and the press.

Mr. Powers was captured when his specially-built Lockheed jet aircraft was destroyed near Sverdlovsk, 1,240 miles inside the Soviet Union, while on a photographic reconnaissance flight from Peshawar in Pakistan to Bodø, Norway.

On May 5, 1960, Mr. Khrushchev, in a three and one-half hour speech to the Supreme Soviet, assailed the United States for having violated Soviet airspace. He said that the U-2 plane had been shot down. The next day Marshal Andrei A. Grechko, commander of Soviet ground forces, said that the plane had been brought down by a single rocket fired upon Mr. Khrushchev's order.

After several weeks of interrogation by Soviet officials, he was tried in Moscow, convicted of espionage and sentenced to ten years of detention.

He was released on the border between West Berlin and East Berlin Feb. 10 in an exchange for Col. Rudolf I. Abel, a Soviet agent who was convicted of espionage in 1957 by the United States and was sentenced to thirty years' imprisonment.

The story that Mr. Powers told the Central Intelligence Agency and the board of inquiry, officials said, was essentially the same as he related in his testimony at his trial in Moscow on Aug. 7, 18 and 9, 1960. It was said, however, that he has cleared up some point that had aised some doubt here.

Soviet Version Doubted

The first of these points was whether the U-2 plane had actually been hit at 68,000 feet by an anti-aircraft rocket. The chief here had been that the U-2 had probably "flamed out" and lost its power at that altitude or somewhat higher, that Mr. Powers had come down to heavier air to get his jet engines started, and that he had been hit—either by a rocket or a missile from an interceptor aircraft.

In his trial testimony, Mr. Powers had said he explosion took place at about 67,000 feet just after he had finished making turn. He continued:

"I was flying one minute straight after the turn when I saw, that is left, sort of hollow-sounding explosion. It seemed to be behind me. I could see an orange flash or an orange-colored light behind me."

During his interrogation by the C. I. A. and the board, Mr. Powers is reported to have given these additional details:

He was flying, he said, at the altitude called for by his instructions, apparently at about 68,000 feet. He was on course and was making notes, as he was required to do.

Suddenly, he felt a jolt. Mr. Powers compared it to the shock a motorist would feel if his car was suddenly hit from behind.

There was no way for him to tell what has caused the jolt. He did, however, then see an orange-colored flash to the rear.

Government technicians have taken this testimony and put it together with one other bit of evidence. The latter bit is that the wreckage of the U-2 put on display in Moscow did not show any signs that it had been hit by shrapnel or rocket fragments.

From this they have reasoned that the plane was not actually hit by a rocket.

It was also uncertain just why Mr. Powers failed to press the buttons that would have blown up his plane. In his Moscow testimony he said only that he was "unable to use the ejector seat because of forces originating in the falling plane." at 30,000 feet, he said, "I realized I could not use the ejection seat" and "so I opened the canopy and loosened the straps."

The centrifugal force pressed half of me against the instrument panel," he said, "while the other half hung outside. I had forgotten to disconnect the oxygen hoses and they held me in. I had to struggle to get out. The parachute opened automatically immediately after I left the airplane. By that time, I was at an altitude of 14,000 feet."

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A Judicial Lobbyist

Elijah Barrett Prettyman

Special to The New York Times.

WASHINGTON, Feb. 27 — Nine months before Francis Gary Powers was downed in his U-2 reconnaissance plane over the Soviet Union, Elijah Barrett Prettyman wrote the following: "History establishes that either the behavior or the predicament of an individual citizen in a foreign country can

Man bring into clash...
in the the powers of his
News own Government
and those of the
foreign power."

The words were written by Judge Prettyman as Chief Judge of the United States Court of Appeals for the District of Columbia in upholding the State Department's right to prohibit travel by an American correspondent in Communist China.

The words were prophetic. The "predicament" of Mr. Powers brought about the collapse of a summit conference, the cancellation of a Presidential visit to the Soviet Union, and a great increase in tensions between the two countries.

It was to Judge Prettyman that the Administration turned to head an inquiry into whether Mr. Powers, in his predicament in the Soviet Union, fulfilled his contract with the Central Intelligence Agency.

His Standing Reinforced

The appointment served further to reinforce Judge Prettyman's standing as an arbiter of delicate matters with strong emotional and policy overtones.

E. Barrett Prettyman—as he prefers to sign his name—has the reputation among lawyers here as a jurist prone to colorful statements from the bench and to freewheeling official activity off it.

He is also regarded as an "undeviating middle of the road" on the bench, and at the same time a fighter and maneuverer in the Capital's national and local political arena. He is almost universally liked and admired.

His decision barring a reporter from going to Communist China was criticized by liberal lawyers. They also were upset when he upheld the constitutionality of the Subversive Activities Control Board and when he required the registration of the American Communist party. Nevertheless, they hail him as a "lover of the law" who is "fair and reliable."

He retired as Chief Judge last December, but he still sits on the Appeals Court, where he has been since 1945. When he stepped up to Chief Judge in 1958, the maze of Federal courts in the voteless District of Columbia experienced what one official described as "a new phenomenon—a judicial lobbyist in Congress."

Juvenile Court Expanded

A victory in Congress for which the city of Washington owes him considerable gratitude came in the House of Representatives against seemingly solid Southern opposition, the House voted to expand the municipal juvenile court. A move resisted by the House for nearly six years, and pressed by Judge Prettyman for nearly



Associated Press

Recognized as an arbiter of delicate matters.

as long.

Judge Prettyman has also been a successful advocate of judicial reform.

A soft-spoken, courtly Southerner—he was born at Lexington, Va., Aug. 23, 1891—Judge Prettyman has often been effective in lobbying with the largely Southern membership of the House District Committee.

When he announced his impending retirement as Chief Judge in 1960, the Judicial Conference of the United States gave him a standing ovation. Typically, however, his announcement of what he called "this terminal point of a lifetime in the law" was premature. Within months former President Eisenhower appointed him to head a reconstituted group known as the conference on administrative procedures to try to reduce the administrative restrictions on the practice of law before the Government's regulatory agencies.

Then, last week, came President Kennedy's announcement of a group of "outstanding citizens", headed by Judge Prettyman, to examine the Powers case.

Formerly Taught Law

After undergraduate and law studies at Randolph-Macon College in Virginia, he taught law at the Georgetown University Law School in Washington. In 1933 he served a year as General Counsel of the Internal Revenue Bureau. Then followed two years as corporation counsel of the District of Columbia. He was in private practice here in 1945 when President Truman nominated him for the Court of Appeals.

Judge Prettyman married the former Lucy C. Hill of Baltimore in 1915, when he was barely out of law school. He spent two years in the army, becoming a captain before his discharge in 1919.

Judge and Mrs. Prettyman have two children—E. Barrett Jr., a former clerk for Justices Felix Frankfurter and John M. Harlan of the United States Supreme Court who married Elizabeth Courtney Prettyman.